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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/526,379 09/11/95 ZOHMANN

W 1234.001

33M1/1214

JACKSON, G

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ART UNIT PAPER NUMBER

3309

DATE MAILED: 12/14/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined  Responsive to communication filed on \_\_\_\_\_  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892.	2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948.
3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.	4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.
5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.	6. <input type="checkbox"/>

**Part II SUMMARY OF ACTION**

1.  Claims 16-22 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims 1-75 have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims 16-22 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).

12.  Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other

*Gay Jackson*

**EXAMINER'S ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by applicant's admission of prior art needle shown in figure 1 of the present application . The above claims are recited to have function wherein the needle can be inserted into the spine and a side port thereof located into the cerebrospinal space but not overlapping the dura meter. Such recitations do not clearly distinguish the claimed invention from said figure 1 needle. The examiner believes the prior art needle is capable of performing the recited function. The location of said side port appear to be a function of the method of insertion.

***Claim Rejections - 35 USC § 112***

3. Claims 16-22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear as to what is sufficiently small since the distance is a function of the

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cerebrospinal space and the dura mater. The phrase "can be" is indefinite.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (703) 308-4302.



Gary Jackson/gj  
November 30, 1995  
Fax (703) 305-3590

**GARY JACKSON**  
**PRIMARY EXAMINER**  
**GROUP 3300**